Malaisamy, Dr. K.

Mukherjee, Shri Dipankar

Narayanan, Shri P.G.

Perumal, Shri C.

Pillai, Shri K. Chandran

Premachandran, Shri N.K.

Rajkumar, Dr. Alladi P.

Ramachandraiah, Shri C.

Rao, Shri K. Rama Mohana

Reddy, Shri Ravula Chandra Sekar

Roy, Shri Tarini Kanta

Sarkar, Shri Matilal

Selvan, Shri Thanga Tamil

Sirigireddy, Shri Rama Muni Reddy

Vanga Geetha, Shrimati

The Motion was adopted.

THE TAXATION LAWS (AMENDMENT) BILL, 2005

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Hon. Members, we shall now take up the Taxation Laws (Amendment) Bill, 2005. *...(Interruptions)...*

SHRI N. JOTHI (Tamil Nadu): Mr. Vice-Chairman, Sir, where is the Minister? *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): The hon. Minister to move the motion for consideration *...(Interruptions)...*

SHRI N. JOTHI: But, Sir, where is the Minister?

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Let him move the motion. ...(Interruptions)... Let him move the motion. *...(Interruptions)...*

SHRI N. JOTHI: Sir, the Minister is deliberately avoiding the House.. *...(Interruptions)..*

*Not recorded.

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): The Government is here to move the Bill. *...(Interruptions)..*

SHRI N. JOTHI: No, Sir, let him come, please *...(Interruptions)...* let him come. *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): The hon. Minister to move the motion for consideration of The Taxation Laws (Amendment) Bill, 2005.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI S.S. PALANIMANICKAM): Sir, I beg to move:

> "That the Bill further to amend the Income Tax Act, 1961 and the Finance Act, 2005, as passed by Lok Sabha, be taken into consideration."

The question was proposed.

SHRI N. JOTHI: Sir, where is the Minister? *...(Interruptions)...*

SHRI YASHWANT SINHA (Jharkhand): Sir, has he taken leave of absence *...(Interruptions)...*

SHRI N. JOTHI:* Let him come and face *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): The hon. MoS has moved the Bill. There is a ruling that it does not matter whether it is the MoS or the Cabinet Minister. We have the motion in front of us. *...(Interruptions)...*

SHRI N. JOTHI: But, Sir, where is the Minister? *...(Interruptions)...*

SHRI YASHWANT SINHA: Sir, has he taken the leave of the House? ...(Interruptions)...

SHRI V NARAYANASAMY (Pondicherry): How many times your *...(Interruptions)...*

SHRI N. JOTHI: Sir, where is the Minister? *...(Interruptions)...*

SHRI V NARAYANASAMY: Sir, *...(Interruptions)...*

SHRI S.S. PALANIMANICKAM: Sir, I am here. *...(Interruptions)...*

*Not recorded.

SHRI N. JOTHI: Will you answer those charges, the Minister of State? *...(Interruptions)...* Sir, let him come. *...(Interruptions)...*

SHRI S.S. PALANIMANICKAM: He is attending the other House. He is not afraid of you. Keep it in mind. *...(Interruptions)...* He is never afraid of you. *...(Interruptions)...*

SHRI N. JOTHI: Sir, let the Minister come. *...(Interruptions)...*

SHRI S.S. PALANIMANICKAM: It is not necessary for him to face you. I am enough to face you. *...(Interruptions)...*

SHRIMATI S.G. INDIRA (Tamil Nadu): Sir, he is afraid of *...(Interruptions)..*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): I think hon. Minister for Parliamentary Affairs wants to react. We would like to ask him about the Situation. *...(Interruptions)...*

SHRI S.S. PALANIMANICKAM: Sir, you first permit me. *...(Interruptions)...*

Then he can reply. *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): You have already moved it. *...(Interruptions)...*

SHRI S.S. PALANIMANICKAM: Sir, I have moved it. *...(Interruptions)..* What about my right? *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): I am here to protect your right. You have already moved. *...(Interruptions)...*

SHRI S.S. PALANIMANICKAM: It is not the Tamil Nadu Assembly. *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Mr. Minister, you have already moved it. Kindly, have your seat. I would request the hon. Minister for Parliamentary Affairs to *...(Interruptions)...*

SHRI S.S. PALANIMANICKAM: Sir after moving the Bill, there is no business for the Parliamentary Affairs Minister. *..(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Hon. Minister. *...(Interruptions)...* Let him react. *..(Interruptions)...*

SHRI YASHWANT SINHA: Sir, the point is that in the List of Business...*(Interruptions)...* This is listed in the name of the Cabinet Minister, Mr. P. Chidambaram. Now *...(Interruptions)...*

SHRI S.S. PALANIMANICKAM: Sir, he is in the other House for other business *...(Interruptions)...*

SHRI YASHWANT SINHA: We want to *know...(Inte,ruptions)...*

SHRI N. JOTHI: He has no business there.* *...(Interruptions)...*

SHRI V. NARAYANASAMY: Sir, *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Mr. Priyaranjan Dasmunsi...(Interruptions)...Let him react *...(Interruptions)...*Let the Government view be there... *(Interruptions)...* Let us have the Government*s view on this. I will allow you to speak. Mr. Jothi, please. Let him have his view, then we will *see...(Interruptions)...*

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRI PRIYARANJAN DASMUNSI): Sir, in matters of Government Business, which are listed in the List of Business...*(Interruptions)...*

SHRI N. JOTHI: Why is he afraid? *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): We cannot have this...*(Interruptions)...*Let him speak...*(Interruptions)...* Let us hear him out...*(Interruptions)...*Let us hear him out.

SHRI PRIYARANJAN DASMUNSI: Sir, *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): You have asked...*(Interruptions)...* I am on my legs. Can you please hear me out? *...(Interruptions)...* Can you hear me out, please? *...(Interruptions)...*Please, hear me out...*(Interruptions)...*Please, hear me out. I am on my legs. ... *(Interruptions)...*Please, hear me *out..(Interruptions)...* I will let you speak. Please, hear me out. Would you please hear me out? *...(Interruptions)...*Mr. Minister, please.

SHRI PRIYARANJAN DASMUNSI: Sir, as per the established practice, any Government Business which is admitted in the Business Advisory

*Not recorded.

Committee and proposed to the House, is taken up by the concerned Minister with the permission of the Chair. Both in the Lok Sabha and the Rajya Sabha, it has been an established practice, not of today, but since their inception. The business taken up in the name of a particular Ministry can be *dealt.(Interruptions)..*

SHRI N. JOTHI: Sir, I should be given a chance...*(Interruptions)..*

SHRI PRIYARANJAN DASMUNSI: What is this? It can be taken up either by the Minister of his junior colleague, an MoS. So, there is no confusion on that point. Sir, in regard to any specific allegation against any Member or any Minister, there is an established procedure, which is completely separated from the official business of the House-a notice to be given to the Minister.

SHRI N. JOTHI: Sir, we have already given.

SHRI PRIYARANJAN DASMUNSI: Just a minute. Allow me to... *(Interruptions)...*

Sir, if they don't allow me to conclude...*(Interruptions)...*

What kind of temperament do you have?

That part of thing can only be dealt with by the Chair whether a particular answer on a particular motion, on a particular complaint, on a particular Member or Minister, could be taken up in the House in a proper manner... *(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Mr. Jothi, *...(Interruptions)...* I will handle it.

SHRI PRIYARANJAN DASMUNSI: I think, Sir the hon. Members should have some patience. Sir, this is a Government Business, financial piece of legislation, which is duly passed by the Lok Sabha as per the Constitution. It has now come to the Rajya Sabha for its concurrence. Sir, I feel that the Minister is very much in his competence to tackle up the matter which he has moved; and discussion on this matter should be concluded by the Members of the House. In regard to a personal explanation of a particular Minister on a particular issue or charge, if the notice is conveyed to him, with the permission of the Chair on appropriate time and date, he can answer that. But[1] the

business cannot be prevented by this. That is the point ...*(Interruptions)*... Business cannot be prevented.

SHRI M. VENKAIAH NAIDU (Karnataka): Sir, I am not making a point of order, but I am just making a point of submission with your permission. Sir, we have heard the hon. Minister of Parliamentary Affairs. He is right to the extent that when there is a Government Business, a Minister can be permitted to take up the business of the other Minister with the permission of the Chair. What we are trying to enquire from the beginning is: Has the Minister sought the permission of the Chair before deputing his MoS to deal with the Bill? It's a Bill and also...*(Interruptions)*...

SHRI V. NARAYANASAMY: Sir, it is not necessary.

SHRI N. JOTHI: Nothing is necessary for you ...*(Interruptions)*...

SHRI M. VENKAIAH NAIDU: Sir, we are going to deal with the Consolidated Fund. It is a very important issue. So, naturally members would like to have the Cabinet Minister. Let us be enlightened whether the Minister sought the permission from the Chair? If that is clarified, as he said, about other issues, we can discuss separately.

SHRI PRIYARANJAN DASMUNSI: Sir, I only know that yesterday, we could not transact business due to the sad demise of P.M. Sayeedji. So, all the business is clubbed in a manner that both the business of the Finance Minister pertaining to Centra! Sales Tax and this thing are clubbed at the same time in both the Houses. So, obviously, one Minister has to come here; one of them should be here. Sir, I can convey to the Minister that as soon as he completes his business there, he can come here. Because the business yesterday was postponed and all that has been taken up today, the same business of the Finance Minister is clubbed in that House and in this House. Therefore, the sharing between the two Ministers is never a wrong thing as per the procedure of Parliament ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Mr. Jothi, ...*(Interruptions)*...*let* me just say ...*(Interruptions)*... Can you have your seat? I will give you a chance. I promise you. After that, you will get the chance... *(Interruptions)*...

SHRI N. JOTHI: I want that right now.

THE VICE-CHAIRMAN (SHRI DINESH ;TRIVEDI): I will give you right now. Let me just explain. The House runs by certain rules and I can assure you that there is not going to be any compromise on those rules. I will give you the chance, Mr. Jothi, as I said. As far as that is concerned, please don't get agitated. We can resolve this issue one way or the other. Mr. Jothi, now, you may speak.

SHRI N. JOTHI: Sir, the business stands in his name. Now, it is stated that he is in the other House *...(Interruptions)...* Sir, it is my allegation, if I specifically charge Mr. P. Chidambaram that he is deliberately avoiding this House *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): See, at the moment, *...(Interruptions)...* Mr. Jothi, let me just finish. At the moment, the issue is, the Bill is in the name of the hon. Minister, Mr. P. Chidambaram. Mr. P. Chidambaram is not present *....(Interruptions)...*

SHRI N. JOTHI: He is avoiding the House.

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): That I can't say. He is not present in the House. Now, we will have to find from the rules whether on his behalf without the permission of the hon. Chairman, any other Minister can move without the objection from any other Member. That is the issue. Kindly deliberate on that.

SHRI N. JOTHI: Sir, I must be heard on this. Sir, according to me, Mr. Chidambaram is deliberately avoiding this House from presenting this bill*... *(Interruptions)...*

SHRI RAJU PARMAR (Gujarat): Our hon. minister was here during Question Hour. He is not right *...(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Your Minister has already said that. You don't have to bother.

SHRI N. JOTHI: Sir, 19 Members of this House have presented a petition to the hon. Chairman. He has not responded to that. It has been published in all the newspapers *...(Interruptions)...* He has not responded *...(Interruptions)...*

*Not recorded.

SHRI V. NARAYANASAMY: Sir, this is not fair ...*(Interruptions)*... We strongly object to that ...*(Interruptions)*...

SHRI N. JOTHI: He has not responded. He is deliberately ...*(Interruptions)*...

SHRI PRIYARANJAN DASMUNSI: Sir, I strongly object to that. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Mr. Jothi, I have told you that at the moment, the subject before the House is very precise. ...*(Interruptions)*... It is very precise.! would very humbly request you not to go out of that frame ...*(Interruptions)*... Anything other than that will not go on record ...*(Interruptions)*...

SHRI V. NARAYANASAMY: Sir, I am on a point of order.

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Let him finish...*(Interruptions)*...Let him finish. ...*(Interruptions)*... I will give you a chance. Let him finish ....*(Interruptions)*...

SHRI N. JOTHI: Sir, I am already on a point of order... *(Interruptions)*...

SHRI V NARAYANASAMY: Sir, I am on a point of order.

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): He is already on point of order...*(Interruptions)*... Mr. Narayanasamy, let him finish. He is also on a point of order ...*(Interruptions)*... I have identified him. Let him finish. Please have patience for two minutes. I will give you a chance.. .*(Interruptions)*... Mr. Jothi please restrict yourself to the question. Anything other than that will not go on record.

SHRI N. JOTHI: Sir, why is he not here? He is afraid of facing. ..*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): No, that is not the issue... *(Interruptions)*... That is not the issue. What is your point of order, Mr. V Narayanasamy?

SHRI V NARAYANASAMY: Sir, the hon. Member is raising an issue which is already before the hon. Chairman...*(Interruptions)*... Sir, my submission is that since a notice is given to the hon. Chairman.. .*(Interruptions)*...

SHRI N. JOTHI: Sir, we want Mr. Chidambaram...*(Interruptions)*... Let Mr. Chidambaram come to this House...*(Interruptions)*... We want Mr. Chidambaram...*(Intenvptions)*...

SHRI V. NARAYANASAMY: Mr. Vice-Chairman, Sir, since it is before the hon. Chairman, unless and until he decides...*(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Hon. Members, please go back to your seats. I have given you a chance. *...(Interruptions)...* We will give you justice here. *...(Interuptions)...* We will find the way out. Kindly go back to your seats. *...(Interruptions)...* Kindly go back to your seats. *...(Interruptions)...* Please go back to your seats *...(Interruptions)...* Please go back to your seats *...(Interruptions)...*

SHRI V NARAYANASAMY: Sir, kindly hear me. I am on a point of order.

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI). I have allowed you on a point of order.

SHRI V.NARAYANASAMY: Sir, my submission is, since it is before the hon. Chairman *...(Interruptions)...* Sir, permission is to be given by the hon. Chairman.

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Nothing is going on record *....(Interruptions)...* Mr. Jothi, will you kindly hear me? *...(Interruptions)...* Mr. Narayanasamy, will you kindly hear me? *....(Interruptions)...* Hear me out *...(Interruptions)...* Please hear me out....(Interruptions)... Please hear me out. *...(Interruptions).,.* Mr. Narayanasamy, Please hear me out. *...(Interruptions)...* Please hear me out. *...(Interruptions)...* Mr. Jothi, just hear me out. *...(Interruptions)...* Please hear me out...(Interruptions)... As per the rule, the Finance Minister means any Minister. The rule is very clear. The Finance Minister means any minister *...(Interruptions)...* Please go back to your seats. *..(Interruptions)...* Just a minute.. *.(Interruptions)...* Mr. Jothi, just one minute...*(Interruptions)...* Just hear me out *...(Interruptions)...* Please hear me out, Mr. Jothi. *...(Interruptions)...* First of all, you should not show pamphlets...*(Interruptions)...* Please stop showing pamphlets *...(Interruptions)...* As far as the rule is concerned, it is very clear. "Minister" means any Minister...*(Interruptions)...* The rule is very clear.. *(Interruptions)...* There is not ambiguity in the rule...*(Interruptions)...* So,any Minister is permitted to move the Bill. *...(Interruptions)...* It is perfectly in order...*(Interruptions)...*

SHRI V NARAYANASAMY: The Tamil Nadu Chief Minister must resign.. *.(Interruptions)...*

कार्मिक लोग शिकायत और पेंशन मंत्रालय में राज्य मंत्री तथा संसदीय कार्य में राज्य **मंत्री** (**श्री सुरेश पचौरी**): पीठासीन अधिकारी ने अपनी रूलिंग दे दी है **...(व्यवधान)...** मिनिस्टर साहब **...(व्यवधान)...** दूसरे सदन में किसी और विषय पर उत्तर दे रहे हैं ...(**व्यवधान**)... एक व्यक्ति दो दो स्थानों पर एक साथ कैसे हो सकता है **...(व्यवधान)...**

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): I have given my ruling *...(Interruptions)...* it is perfectly in order...*(Interruptions)*...I have already given my ruling...*(Interruptions)...*

SHRI V. NARAYANASAMY: We want Tamil Nadu Chief Minister's resignation. *..(Interruptions)...*

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): The House stands adjourned till 4 O' clock.

The House then adjourned at twenty-three minutes past three of the clock.

4.00 P.M.

The House reassembled at four of the clock,

[MR. CHAIRMAN in the Chair]

SHRI V NARAYANASAMY: Sir, Vanakkam.

MR. CHAIRMAN: Vanakkam.

SHRI S.S. AHLUWALIA (Jharkhand): Sir, vanakkam has become an official *Namaskaar in* the House.

MR. CHAIRMAN: They have made it.

SHRI M. VENKAIAH NAIDU: That is good for the national integration.

MR. CHAIRMAN: Shri Dipankar Mukherjee...(Interruptions)...

SHRI N. JOTHI: Sir, very serious allegations have been made by 19 Members of this House...

SHRI V. NARAYANASAMY: Sir, I have also given.....

MR. CHAIRMAN: Please don't disturb ..... *(Interruptions)* ..... I am here. Please don't disturb ..... (*Interruptions)* .....I would not allow this.... *(Interruptions)*.....Please don't disturb.

SHRI N. JOTHI: Sir, the integrity of the hon. Minister is in question.

MR. CHAIRMAN: Without my permission, nobody will talk about these allegations ....*(Interruptions)* ..... I have received your notice. I will tell you.... *(Interruptions)*.....I will not permit you. First I want to hear him. I will hear him first. Please take your seat.

SHRI N. JOTHI: Mr. Chairman, Sir, I have got full faith in the hon. Chairman and in this House. I have also got full faith in the purity in public life....(Interruptions) .....

MR. CHAIRMAN: Let him speak.

SHRI N. JOTHI: According to the Third Schedule of the Constitution, when a Minister of the Cabinet enters office he takes oath that he will do his duty without fear or favour. Sir, fifteen days ago, nineteen Members of this House, including me, gave a notice to the hon. Finance Minister, wherein all documents, a questionnaire and a resolution have been enclosed. Before that, we had submitted a memorandum to the hon. President as well as the hon. Prime Minister.

MR. CHAIRMAN: I will clear the whole thing. *..(Interruptuions* मेरा सुन लीजिए।

श्री सुरेश पचौरीः सर, उस इश्यू पर वे डिस्कस नहीं कर रहे हैं। **...(व्यवधान)...**

श्री सभापतिः एक मिनट, मुझे सुन लीजिए, वे नहीं बोल रहे हैं। **...(व्यवधान)...**

यह बात सही है कि इन्होंने एक ज्ञापन प्रेजीडेंट को दिया, एक ज्ञापन प्राइम मिनिस्टर को दिया और वे सब चीजों मुझे दीं। मुझे देने के बाद मैं उसकी स्टडी कर रहा हूं। यह माननीय सदस्य यह भी बोल रहे हैं, इन्होंने भी मुझे कुछ कागज दिए हैं, मैं उनकी भी स्टडी कर रहा हूं। फिर जब तक मेरे पास सपोर्टिंग डौक्युमेंट नहीं आएंगे तब तक मैं किसी भी प्रकार का निर्णय नहीं दे सकता **...(व्यवधान)...** छोड़िए, **...(व्यवधान)...** मैं एलाउ करूं या नहीं करूं that is a different matter इसलिए मैं आपसे भी रिक्वेस्ट करना चाहूंगा कि मैं अभी तक निर्णय नहीं लिया है। आपके पेपर्स मैंने ए-टु-जैड पढ़ लिये हैं। **...(व्यवधान)...**

श्री राजू परमार: आप बैठ जाइए, जबकि सभापति महोदय खड़े हैं।

श्री सभापति: आप मत बोलिए, वे खुद ही बैठ जाएंगे।

मैंने एक-एक पेज पढ़ लिया है, आपकी ग्रिवेंसेज क्या है उसको मैं समझ रहा हूं। लेकिन यहां मेरी जगह आप भी होते तो यही कहते। प्रेजीडेंट को आपने ज्ञापन दिया है अभी तक उन्होंने भी कोई एक्शन नहीं लिया, प्राइम मिनिस्टर को भी आपने दिया है लेकिन उन्होंने भी अभी एक्शन नहीं लिया तो जब तक मैं सारे सपोर्टिंग डौक्यूमेंट नहीं देख लूं उस समय तक मैं कोई फैसला करूं, मैं समझता हूं कि कूर्सी पर बैठकर इस पर मैं कोई अनुचित कार्रवाई न करूं। इसलिए मैं आपको यह विश्वास दे सकता हूं कि अगर आपने सपोर्टिंग डौक्यूमेंट देकर मुझे कंवींस कर दिया तो मैं निश्चित रूप से जो भी रूल के अन्तर्गत, व्यवस्था के अन्तर्गत, संविधान के अन्तर्गत कार्रवाई हो वह सारी करूंगा, यह आपको विश्वास देता हूं और यही आपको भी विश्वास देता हूं कि आपने जो भी मुझे कागजात दिए हैं उनके बारे में आप जो सपोर्टिंग डौक्युमेंट देंगे तब उस पर सारी चर्चा होगी।

श्री सुरेश पचौरी: जिसकी अगर आपने अनुमति नहीं दी और उस संदर्भ में कुछ बोल गया है तो सदन की कार्यावाही से विलोपित किया जाए।

श्री सभापति: वह मैं खुद ही बोल गया हूं। प्रेजीडेंट को उन्होंने ज्ञापन दिया, प्राइम मिनिस्टर को ज्ञापन दिया, इनको कापी भेजी है, मुझे कापी भेजी है, तो यह जो बोलने वाले थे मैं इनको बोल गया। उसमें कोई आपत्ति की बात नहीं है। इसलिए आज इस डिबेट को चलने दीजिए। मैं आपको एश्योर करता हूं कि ...(**व्यवधान**)... एक मिनट उनको बोलने दीजिए। ...(**व्यवधान**)...आप बैठ जाइए।

SHRI N. JOTHI: Sir, just one minute. Only in a court of law, should a matter be proved beyond reasonable doubt. In matters of public life, even if a needle of suspicion is pointed against a person, he must come forward to unburden himself and prove his honesty. When 19 hon. Members of this House had signed...*(Interruptions)*

SHRI V. NARAYANASAMY: Sir, I can also raise a similar point and say. *(Interruptions)*

MR. CHAIRMAN: Please don't disturb the proceedings...*(Interruptions)* Have some patience to hear others? *(Interruptions)* I am not allowing you...*(Interruptions)* Mr. Jothi, you finish now...*(Intenvptions)*

SHRI V. NARAYANASAMY: I am prepared to speak.

श्री सभापतिः माननीय सदस्य, जरा वे एक मिनट बोल लें। यह वही बोल रहे हैं जो मैं कह रहा हूं। इनका नोटिस तो मेरे पास है। ...(**व्यवधान**)... मैं अभी आपको बोलने की इजाजत देता हूं तो क्या आप बोलेंगे ...(**व्यवधान**)... एक मिनट मेरी सुनिए। मुझे मत कहिए, उस नोटिस में कुछ है नहीं।

SHRI N. JOTHI: I have got 100 per cent faith in the hon. Chairman and I am sure that the hon. Chairman will take the right course of action. I know that. The only thing that I am insisting on is that if a needle of suspicion has been pointed against a Minister, he must come out of it and show to the world, "Look; I am a pure man." Unfortunately.. *(Interruptions)*

श्री सभापतिः मेरी सुन लीजिए, आज तक मैं 50 वर्षों से विधान सभा में और यहां बैठा हुआ हूं। इस प्रकार से एलीगेशन लगाकर मुझे तो कोई त्याग पत्र देकर गया हुआ दीखता नहीं, आज तक तो नहीं। आज तक नहीं देखा है। मेरे पास, आप चाहें तो 1952 से लेकर अब तक, इस पार्लियामेंट में जिन लोगों के खिलाफ भी आरोप लगे हैं, एक मुटिगल के सिवाए किसी ने त्यागपत्र नहीं दिया, किसी इन्क्वायरी कमीशन के कारण उसको नहीं हटना पड़ा। ...(**व्यवधान**)... अब आप कुछ और बात मत छेडिए। भगवान की कृपा से हाऊस को चलने दीजिए। इसलिए मैं कहता हूं कि मुझे आपने यह कागज दिया है, मैं आपको विश्वास दिलाता हूं कि मैं उसकी अच्छी तरह से स्टडी करूंगा और किसी तरह का पक्षपात नहीं होगा। ...(**व्यवधान**)... आप क्यों खड़े हो जाते हैं मूल चन्द जी? ...(**व्यवधान**)...

SHRI N. JOTHI: Only last half-a-minute, Sir. *(Interruptions)* If the honesty of the Minister permits, he can... *(Interruptions)* He has not come forward till now. *(Interruptions)* I am very sorry for that. I do not want to be here, when this kind of a thing goes on here. I want to walk out. *(Interruptions)*

SOME HON. MEMBERS: Go, go.

श्री सभापतिः नहीं इस तरह से "go-go" नहीं बोलना चाहिए। श्री यशवंत सिन्हा, बोलिए। ...(**व्यवधान**)...Why are you disturbing the proceedings? Please take your seats. *(Interruptions)* You please take your seat. *(Interruptions)*

SHRI N. JOTHI: Sir, I want to walk out.

MR. CHAIRMAN: You should not walk out. Sit here. #3¯3Fl3ft, STrft^TT "SfRI

SHRI N. JOTHI: Sir.

MR. CHAIRMAN: No, no. You will not disturb me and they will not disturb you. *(Interruptions)* Please take your seat. Yashwant Sinha *(Interruptions)*

SHRI N. JOTHI: They are talking about purity here and doing all kinds of things outside.

श्री सुरेश पचौरीः सर, अब purity, impurity का मामला उठेगा सदन में?

श्री सभापतिः छोड़िए, इस बात को। ...(**व्यवधान**)...

श्री राजू परमारः हमने बहुत देख लिए है। ...(**व्यवधान**)... ये बिजनेस नहीं चलने देते हैं।

श्री सभापतिः आपने देख लिया, मैंने भी बहुत देख लिया है। ...(**व्यवधान**)...

श्री सुरेश पचौरीः सर, अगर ये रिकार्ड पर ला रहे हैं, तो फाइनेंस मिनिस्टर यहां मौजूद हैं,

please permit him to reply. Otherwise, it should be expundged from the record.

श्री सभापतिः मैं देखुंगा, उसमें कौन सी बात है? मैं आपको बताता हूं।

SHRI SURESH PACHOURI: And let him respond to the query being made by Shri Narayanasamy. Let it be a transparent system.

MR. CHAIRMAN: I will check it. *(Interruptions)*

SHRI N. JOTHI: There have been violations of the Income-Tax Act. *(Interruptions)*

SHRI SURESH PACHOURI: Okay. Then, let us have the debate on the violations of Income-Tax Act. *(Interruptions)*

MR. CHAIRMAN: Mr. Jothi, now you keep silent. *(Interruptions)* I will check up the records. Shri Yashwant Sinha.

SHRI YASHWANT SINHA: Sir, with your permission, I rise to speak on the Taxation Laws (Amendment) Bill, 2005 which has been brought forward for the consideration of this House by the hon. the Finance Minister.

Sir, any Finance Minister is in a fortunate position as far as taxation is concerned because he gets an opportunity annually through the Finance Bill to make whatever amendments he wants to make in the taxation laws relating to the Government of India taxes. Sir, the hon. Finance Minister also had an opportunity when he presented the Budget earlier this year and he did take advantage of that opportunity and made various amendments in the taxation laws in the Finance Bill was passed, or, perhaps even when it was pending, be brought another taxation amendment Bill which was introduced in the other House and was referred to the Standing Committee on Finance. The Standing Committee laboured on that Bill. We have submitted our report. Therefore, I was a bit surprised when I found that another Taxation Laws Amendment Bill has been brought forth first as an ordinance and then replaced by the Bill which is presently under the consideration of this House. I will go into the details as we discuss this Bill. But I will begin by saying that when I went through this Bill which replaced the ordinance I found that there were two types of provisions in this Bill.

One provision related to the provisions in the Ordinance itself. And then, there were another set of provisions, two of them, which were not in the Ordinance at all, not even by a long shot were they included in the Ordinance. And, obviously, they would have come to the Finance Minister as an after thought, after he had, or, the Government-had promulgated the Ordinance. So, the first point, therefore, Sir, which I would like to make is that obviously the Finance Ministry, the Finance Minister while presenting the Budget for 2005-06 did not do a complete job. As a result of which, it became necessary for them to come with two sets of Taxation Laws (Amendment) Bill. And, I will explain why I am making all these points. Now, let us look at the Ordinance first, and what kind of provisions did the Ordinance include? We have your statement explaining the circumstances under which the Ordinance had to be promulgated, and the Finance Minister had mentioned various provisions of the Bill which had to be promulgated through an Ordinance, because it became unavoidable. I have gone through very carefully the statement which the hon. Finance Minister has placed before this House, and I find that except for one, Sir, which relates to the Dabhol Power Plant, which was a settlement which came later than the presentation of the Budget, and which has led to the amendment of a certain number of provisions of the

Income-Tax Act. Except for that one circumstance, I am unable to persuade myself to accept the argument of the Finance Minister that all the others would not have been anticipated at the time of framing of the Budget, and, therefore, it became necessary for them to do it through an Ordinance. Sir, an Ordinance, everyone agrees, cutting-across political party lines, is an undemocratic method of legislation. And, there are any number of statements on this subject. But an Ordinace relating to taxation is even more undemocratic. Therefore, on any financial business, every Government attempts and tries to ensure that they don't issue Ordinances. Now, what are the various provisions, Sir, in this Bill which were earlier part of the Ordinance which was promulgated? Lease payment for aircraft; a provision which was coming to an end of 30th September, 2005. The explanation given is that many of the airlines in India would not complete the lease agreement; therefore, the Finance Ministry was approached by these airlines to extend the date beyond 30th September, 2005. Therefore, the date is being sought to be extended up to 31st March, 2006. Why could not this be anticipated? We are all aware that right at the beginning, or, even earlier than this financial year, various airlines, including the public sector airlines were trying to acquire new aircraft through lease, through direct purhcase. Therefore, when the Finance Minister was framing his Budget proposals, he should have anticipated that many of them, and especially the public sector airlines, Air India and Indian Airliens because of the long procedure through which they have to route their proposals would not be in a position to complete the formality of leasing aircraft by 30th September, 2005. Therefore, in the Budget itself, perhaps, he could have extended the date up to 31st March, 2006.

But, it was not anticipated; it was not brought to his notice, perhaps; and, therefore, after the Budget was passed, the Finance Bill was passed, it became necessary for him to bring this amendment.

Sir, tax concessions for the international sporting event is an old issue. The International Cricket Council, or by whatever name that is called, and the Board of Cricket Control in India have been representing to the Finance Ministry that they need assurances from the Finance Ministry through amendments in taxation laws to hold international events here in India. Therefore, this provision also, to my mind, Sir, was not necessary. The Finance Minister says that the Cabinet had already

decided that certain incomes from international sporting events to be held in India will be exempt from tax. The Cabinet may have taken a decision, the Cabinet decisions also take time because the Cabinet Note has to go through a long procedure in the Government, but this is something which could have been anticipated.

Sir, then there is a provision under the fringe benefit tax, about exempting political parties from paying fringe benefit tax. Now, the explanation offered by the Finance Minister is that it is likely that this provision is misinterpreted by the assessing officers who will subject political parties also to the fringe benefit tax. Sir, when I speak later on the Supplementary Demands for Grants, I will be apprising the House, through you, and the Finance Minister of what my views on fringe benefit tax are. But, I am absolutely amazed that when the fringe benefit tax provisions were being finalised by the Minister of Finance, why this very simple thing like excluding political parties from the liability to pay fringe benefit tax was not there. When we are making an omnibus provision that everyone will pay fringe tax,then, at the same time, one should have thought which are the bodies, institutions, organisations which will not be subjected to fringe tax. If the Finance Minister had persuaded himself to the ways to be apprised of just one query, I am sure, it would have been pointed out to him that political parties could come within the mischief of the fringe tax and, therefore, there should be a specific provision in the fringe benefit taxing to the effect that political parties will not be within the mischief of the fringe benefit tax. Sir, this also has come as an after thought.

Then, Sir, we have the banking cash transaction tax. In the banking cash transaction tax, again, the Finance Minister is trying to tell us that inter-bank cash transation, it was never his intention to bring within the purview of the banking cash transaction tax; but because it is likely to be misinterpreted, therefore he is bringing this specific provision. So, the argument that I have offered about political parties on fringe benefit tax is something which applies again to the banking cash transaction tax also. This should have been anticipated. Every one is aware, Sir, that when you are going to tax cash transaction, there will be cash transactions between banks, among banks and, therefore, the simplest thought that should have come to the mind of the Finance Minister was to say that this will be excluded from the purview of the cash transaction

tax. But that did not happen. So, these are some of the provisions which have been incorporated, which necessitated the promulgation of this Ordinance. Therefore, the short point I am making is that except for Dabhol Power Plant, all of them should have been anticipated. It is nothing but shoddy workmanship on the part of the Finance Ministry that subsequent to the Finance Bill, these amendments had to be made and that too, through an Ordinance, in order to correct the mistake or clarify the misunderstaning contained in the Finance Bill and the various provisions of the Bill.

Then, I come to the two new provision which have been included in this Bill which seeks to replace the Ordinance. If these two provisions—Provisions 3 and 4—had not been part of the Bill, I would have finished my speech at this stage and taken my seat. But, unfortunately, I find that two entirely unrelated, two entirely new provisions have been included in this Bill, which is supposed to replace the Ordinance. And, these, as I said, are Provisions 3 and 4 and they related to taxing of export income. This is not a part of the other Taxation Laws (Amendment) Bill which the hon. Finance Minister introduced after the Finance Bill was passed, or, was pending before Parliament. It was not included in the Ordinance, in the first instance. It has now been included in the Ordinance, in the first instance. It has now been included in the Bill which seeks to replace the Ordinance. With all due respect for the hon. Finance Minister, I will say, this is not an honest attempt. I am aware of the fact that the Ordinances, when placed as Bills before any House of Parliament, do carry modifications. And certain provisions, with a greater wisdom which a Government might come by, in the following weeks, could lead to modifications of the provisions already covered in the Ordinance. But, introducing two completely separate and new provisions in the Ordinance is nothing but trying to do it through the smuggling route. Every one is aware that if an important Bill, like other Taxation Laws (Amendment) Bill, is introduced in the House, it would be referred to the concerned Standing Committee. As I just mentioned before you that the Taxation Laws (Amendment) Bill was referred to the Standing Committee on Finance. There are Members of the Standing Committee on Finance sitting in this House. We have deliberated on it. We have applied our mind to it and we have apprised the Government of our suggestions. Now, this is the Parliamentary

system which has been evolved in this country over the last many years that a Bill will go to the concerned Standing Committee and the Standing Committee will get a chance to make its recommendations to the Government. Now, if you introduce it through the route of an Ordinance, then, what happens?

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Not through an Ordinance.

SHRI YASHWANT SINHA: Not through an Ordinance. But, when you introduce it in a Bill which is replacing an Ordinance, then, you are denying an opportunity to the Standing Committee to examine the provisions. This is exactly what has happened. Normally, an Ordinance has to be promulgated into law. We are all aware of it. Any Ordinance has to be passed as law in the following Session of Parliament, except when it runs into the kind of political difficulties that we experienced with the Pension Fund Regulator Authority Ordinance when, because of the objection of your friends, you have compelled to refer it to the Standing Committee. Now, the Standing Committee has given its Report. That is another subject and we will talk about it later. Here, these two Provisions are so important that I personally feel that the hon. Finance Minister is being less than fair to the Standing Committee on Finance and to Parliamentary procedure, by not referring it to the Standing Committee. If he had not smuggled those provisions into the Bill, replacing the Ordinance, then, in the normal course, I am sure, it would have been referred to the Standing Committee and we would have given our recommendations. What are these two provisions? These two provisions relate to taxing income of exports'. Now, I am aware of it because I was the Finance Minister who said that export income should be taxed. When I made this announcement, I also said, at the same time, that we will give to the exporters a period of five years over which this tax would be gradually, incrementally left and that period expired on the 31st March, 2005.

Now, export income has to be taxed, in this particular case. Therefore, there is a period of seven years, starting from 1st April, 1998 and ending on 31st March, 2005. And, these are the seven years during which, or, from which one has to decide whether income earned by the exporter is, through the various export promotion schemes, like, the DPD, the DFRC, etc., to be taxed or not. Now, we are aware of the fact that various assessing

officers, in various cases, have given one opinion or the other. Some exporters' income have been assessed after a scrutiny, and have been accepted. They have been accepted by the assessing authorities. And, the assessing authorities have said that this is not subject to tax, while in some other cases, the assessing authorities have said that this is subject to tax. This matter, at least in one case, according to my information, went up to the Income Tax Appellate Tribunal (ITAT). And, the ITAT ruled against what the Finance Minister will call the 'considerations of revenue'. So, it went in favour of the assessee and against the department. Against it, the department has gone to the Delhi High Court, challenging that particular rulling of the ITAT. Now, one would say that, in the normal course, this matter will be decided by the courts of law—High Court, then, may be the Supreme Court—and they will determine whether this income should be taxed or not.

The hon. Finance Minister is a very distinguished lawyer. I have absolutely no desire to cross swords with him as far as matters of law are concerned. But, I would very humbly point out that, perhaps, the critical mistake, which is being made here, is 'any income, earned out of trading in licence'. Is it the export income? Is it the business income? Is it arising out of the export-import activities? And, if unfortunately, Sir, the Finance Minister comes to the conclusion that it has nothing to do with export-import activity, then, I would say very humbly that that is not correct because an exporter will take advantage of this provision only when export has taken place. And, it might be trading, it might be income in rupees, and not in foreign exchange. But, at the same time, it will be erroneous, to my mind, to say that it is not connected with the export-import. It is directly connected with export-import because he gets a licence only after he has exported. He might trade in the licence. He might import and trade in the goods that are imported. He might earn a profit on that. But that is the intention of the law. The law does not say the Finance Ministry and the Commerce Ministry, when they sit down and work out the exim policy, do not say, "You will not do this", so far they have not said. So, now, just imagine, Sir, this matter was represented to the Prime Minister. And even if one does not go by the newspaper reports about the assurances given by the hon. Prime Minister, then, what happens? The Prime Minister referred it to the Prime Minister's Economic Advisory Council. And, the Prime Minister's Economic Advisory

Council has suggested that you should deal with it in the manner in which the Finance Minister has dealt with it, namely, that you bring in a provision in the law that exporters who have a turnover of Rs. 10 Crores will be exempted from this tax; and, exportes who have a turnover of more than Rs. 10 Crores will be brought within the mischief of this tax; and, that they will have to pay income tax on all the earnings that they have made on trading in licences from 01.04.1998. So, it is a-seven-year liability, which is being retrospectively put on the exporters, even those who have not paid, and whose incomes have been assessed after verification. Now, my question is this. Is this fair?

It might be in the interest of the revenue. The Finance Minister has done a lot of things in the interest of revenue, but if this is in the interest of revenue, should it override to that extent that the inconvenience to the other person would be completely ignored, Sir, that a new obligation, a new burden should be put on the exporters, on incomes on which they never imagine they will be called upon to pay taxes? And the question, Sir, that I will put is this. The Economic Advisory Council of the Prime Minister consists of very eminent people. I have great respect for them. But the Standing Committee of the Parliament does not consist of fools. There also distinguished people, Members of Parliament, elected representatives are there. You trust the judgement of the Economic Advisory Council, but you are not prepared to secure the recommendations of the Standing Committee. This is something, Sir, that I find extremity. And, therefore, Sir, as far as these two provisions are concerned, sections 3 and 4 which have been incorporated in this Bill subsequent to the promulgation of the Ordinance do not, unfortunately, stand the test of scrutiny. As I said, it is less than an honest attempt on the part of the hon. Finance Minister to bypass Parliamentary procedure, deny an opportunity to the Standing Committee, and deal with the issue in such a summary fashion by incorporating these provisions into the Bill by replacing an Ordinance. Therefore, Sir, in the end, i will, most respectfully, submit to this House, through you, and to you, Sir, that cutting across political party lines, as far as these two provisions are concerned, they should be deleted from the Bill. The Finance Minister should have the courage to stand up here in this House and say, "Okay, we will delete it because they are unfair, onerous, and a burden which could not have been anticipated by the

exporters, that they should not have imposed this burden." I am not going into the differences which have cropped up between the Finance Ministry and the Commerce Ministry on the issue of which I am aware. But treating the Government as one entity, Sir, I will say these two provisions should be deleted or in the alternative it should be referred to a Select Committee of this House. This Bill should be referred to a Select Committee of this House. I will remind the hon. Finance Minister and many Members of this House, through you, that when I was the Finance Minister, I had brought a Bill to the Rajya Sabha which had already been passed by the Lok Sabha, that was the Money Laundering Bill, in 1999. When many people in this House, responsible people in this House pointed out to me that there were certain provisions in the then Money Laundering Bill which could have been misused later, I immediately agreed and I said, "Okay, we will refer it to a Select Committee of Rajya Sabha." It was referred to the Select Committee of the Rajya Sabha. The Select Committee of the Rajya Sabha got an opportunity to apply its mind, made suggestions, and, subsequently, after incorporating those suggestions, making those amendments, the Bill was brought again to both the Houses of Parliament and has been made into a law. So, let us not stand on any false sense of prestige and we should agree to refer it to the Select Committee of this House. Otherwise, Sir, my great apprehension is that this is not going to be the end of the matter. This law is going to be challenged in courts of law, and this desire on the part of the Finance Minister that this amendment will bring an end to all the litigations on this subject will not come true, and more and more litigations will get started, generated in the process, and, then, it will not be in the interest of the revenue, justice or fair play demands. Let this Bill be referred to a Select Committee.

PROF. SAIF-UD-DIN SOZ (Jammu and Kashmir): Mr. Chairman, Sir. As has been explained in the Bill, the Taxation Laws (Amendment) Ordinance, 2005 was promulgated to give effect to certain decisions taken by the Government subsequent to the Finance Act, 2005. Such decisions required amendment to the Income Tax Act of 1961 and the Finance Act,-2005, hence this Bill.

Sir, I have already been instructed to be very brief because there is another Bill before us, and, therefore, I don't have any time. And, it would be difficult to be brief, because hon. Yashwant Sinha had been our Finance

Minister earlier, so disagreeing with him is not that simple. But, as a laymen, I will say that he has raised objection to the promulgation of an Ordinance followed by this Bill. My dear Sir, Ordinance are bad and should not be there, but they have always been there, and, in future also, Ordinance will be there. Earlier I also, raised objections against Ordinances, even when the session of this House was close at hand, but that could not be avoided. I would not agree with him when he says that it is the after-thought of the hon. the Finance Minister. Sir, the guiding principle is that whenever public interest is there, the Ministers, the Government, have to respond to that. So, I would not agree with him when he says that the Finance Minister had an after-thought. As regards the two provisions should be taken away and referred to the Select Committee, not all Bills go to the Select Committee. An Ordinance followed by the Bill is a natural course.

Sir, as I have to be brief, I have chosen only some features which are very positive. I must congratulate the hon. Finance Minister for these positive features of the Bill. There is a good feature in the Bill that the exemption has been granted to incomes from international sporting events. It is a very good feature; it is a very good news to the people who love sports and who have interest in sportsmen. Even multinationals will be exempted from taxes for hosting sport events. I would suggest that Olympic sports should also be brought under the category of exemption. The next feature is exemption relating to encouraging companies involved in power generation and transmission. It is a very laudable step. Many parts, Mr. Chairman, of this country, despite so many hydel power resources, live in darkness. So I am very happy about this measure, particularly, with regard to Kashmir, because this is winter and we have very long dark nights to face. This will certainly encourage companies to organize proper transmission and to generate electricity. I congratulate hon. Finance Minister for exempting this sector, and by 31st of January, companies can apply and they will have this concession for ten years. It is a very good feature of this Bill.

Then, political parties and companies registered under Section 25 of the Companis Act are exempted from liability or payment of tax. It is also a welcome feature.

Then, Sir, in order to extend certain tax incentive to the export business

with effect from the assessment year 1998-1999, it is proposed that the deduction allowable under Section 88-HHC of the Income Tax Act, 1961 for export business may be extended to any profit or transfer of the Duty Entitlement Pass Book Scheme or the Duty Free Replenishment Certificate, subject to certain specified conditions and to amend section 80-HHC of the Income-tax Act, 1961 for the said purpose. This is also a welcome feature. But, while I was welcoming this Bill and congratulating the hon. Finance Minister-he is a brilliant Finance Minister; among the Finance Ministers, many people have contributed quite a lot, everyone contributed in his own way and we were witness to that, but Mr. Chidambaram has his own style of understanding financial problems and the nation feels every safe in his hands— I would mention raise some issues to him on which he has offered these exemptions.

Mr. Chairman, Sir, the Income Tax laws are very complicated. I tried to fill up the form for paying Income Tax. In fact, I had to seek help. But, what about the people who are not that qualified or educated? We cannot invite Kaldor here; you are our Kaldor. But, you may, please reform the tax system. You may get on your table the form for tax deduction. I susppose, you too must be facing difficulty while filling up that form. This is a discouragement.

Sometimes, genuine taxpayers don't come forward; they pass it on to the next year. There is fear of getting into the tax net. Perhaps, this needs to be explained to the people who are liable to pay taxes, but on a large scale there is fear prevailing in the country. Once somebody comes In the net, there is the fear that he would always be heavily taxed. There is a fear lurking in their minds all the time.

There is no system of recognizing the efforts of genuine taxpayers, who do service to the nation. They don't do any, as we say in Hindi, "ehsaan."They have to pay taxes; they are the citizens of this country. But, there has to be some system of recognition to the taxpayers. There is a lot of corruption in this country and you have to do that *"chhaapa"* business. That should go. That is not correct. People should pay taxes in the normal course and again, in the normal course, there have to be punishments for those who avoid paying taxes. But, there should be some recognition to those who are law-abiding citizens of this country...*(interruptions)*... "Evade" is the proper expression.

Then, Sir, there is an impression prevailing in the country. I have seen many people carrying the impression that luxury goods and things like computers have become cheaper for the upper middle class, while vegetables have become costlier for the poor people. Is this impression correct? I feel that many people have this impression. Could you, kindly, remove this impression and say something, categorically and decisively, to disprove that?

Then, you had promised a friendly and honest tax administration. Kindly ensure that. While on radio and television there is campaign, but I would request for a more vigorous campaign asking people to pay taxes on time. Think you very much.

SHRI DIPANKAR MUKHERJEE (West Bengal): Sir, what Prof. Soz has just now said so clearly, I think, brings out the spirit of the Bill quite well as far as the Ordinance route is concerned. We say that Ordinance should not be a route, but it does happen and it would continue to happen.

Sir, certain things are happening today in this House, which are a little difficult to comprehend for some people. In the morning, on the Andhra Pradesh legislative Council Bill, some were supporting the Bill, and, thus, not supporting the Government. There was opposition. Those supporting the Government were opposing it. Mr. Yashwant Sinha was refering to 'friends-and-foes'. I do not know how to make out who are the 'friends' are who are the 'foes'...

SHRI YASHWANT SINHA: Both categories.

SHRI DIPANKAR MUKHERJEE**:** AH right. Now, that is why, in this Bill also. I come to, what 'friends' or 'foes' say on para 4 of the Statement Explaining the Circumstances—this is about the Dabhol Power Plant-where I find that Mr. Sinha has no point to make, whereas we have many points to talk about. Now, I don't know who is a 'friend' and who is a 'foe'. Sir, I had given a letter to you also, basically on this issue. I must put it on record—I don't know whether Mr. Jothi would like it or not; he is not there—that on very ethical grounds, regarding the settlement of Dabhol Power Plant, the hon. Finance Minister had distanced himself from all the settlement efforts that were being made. But we had been demanding in this House, time and again, for the last one year, that the Government should come out with what the settlements in the case of the Dabhol Power Plant were.

Till now, in this House. *...(Interruptions)...* Narayanasamy is disturbing now.

SHRI P. CHIDAMBAAM: But I have the right to recluse.

SHRI DIPANKAR MUKHERJEE: I know. Sir, you have the right. On ethical grounds, you have done it. You have the right to recluse, but, Sir, we have the right to know. That is why, it has come, and, I think, you know that, time and again, there this issue was raised. Now, when these concessions are being given for those who are taking, in our perception, a second-hand, high cost asset, then what has been the settlement? As a part of this settlement, how has this concession been given to whom? Prof. Soz was probably telling about some other power companies. I don't find this concession, which is being given, does hold good for power sector. I think it is a company concentric concession which is being given. It is not for a particular company that this concession is being given, if I am not mistaken. This 4.1,4.2,4.3 is not some sort of a policy decision on sick power plants to be taken over by X,Y or Z, Supposing, tomorrow a sick power plant of Andhra and UP is taken over by NTPC, could the same concession be made available to them? It is not very clear to me. I would also like to know whether it is revenue-neutral or certain revenue exemptions are there. After giving such concessions, what will be the cost of revival? Were the public sectors being involved? I know, this is not a part of this, but unless I know about it, it remains a mystery unless the total settlement is there. I would request again, through you, Sir, to the Government, please come out is the House with the total settlement package of Dabhol. Otherwise, we are discussing about concessions without knowing what the settlement is. It appears that Mr. Sinha knows about it because he said that settlement has come down. But we don't know about it *...(Interruptions)...*

SHRI YASHWANT SINHA: Let me clarify. The only point that I made about Dabhol was that the settlement came subsequent to the presentation of the Budget and if, therefore, any law had to be amended, they could do it through the Ordinance.

SHRI DIPANKAR MUKHERJEE: What I meant was that on 4.3, ! would like to have clarification wherein this statement explaining the circumstances and justification for this Ordinance is given. This Ordinance

also inserted a new clause which exempts any income arising from a transfer of a capital asset of an undertaking engaged in the business of generation and transmission. Who is the beneficiary? Ratnagiri Power will be the beneficiary out of this income. Then taking 4.1, 4.2 and 4.3, what is the total amount of revenue exemption which is being allowed, and if that part is going to confine, then for how many years will it continue because two public sectors are being involved in that? Whether the Government will also assure that after all these concessions, after all the efforts and involvement of not only a Part-I company but even a gas transfer company, if it revives, whether this will be made ready for handing over to someone, or it will be nationalised. What exactly is being done about this company? Is it being nationalised? If it is not being nationalised, is it a Special Project Vehicle? Whether it is made ready for someone else—X, Y, Z— handling the Mumbai power supply to take over the power project for two years because when the concession is being given to a company, the nation has the right to know about this. I would like to have these clarifications. If the Finance Minister feels that it is not proper for him to clarify, the Minister of State is there. He can clarify on these issues. Thank You.

SHRI C. RAMACHANDRAIAH (Andhra Pradesh): Sir, this Bill seeks to provide certain incentives to expoters who have used Duty Entitlement Pass Book or Duty Free Replenishment Certificate *...(Interruptions)...* Provided the export turnover is not exceeding Rs. 10 crore. *...(Interruptions)...* The provisions of this Bill effectively mean that the profit are from the sale or transfer of Duty Entitlement Pass Book and these licenses are not to be tax exempted*...(Interruptions)...* as demanded by the exporters.

Sir, the Bill has made it clear that profits made on the transfer of these licences, that is, DEPP, should be treated as business income. So, it has been brought within the tax net. It has proposed the actions of deductions allowable under section 80HHC of Income Tax Act to profits on transfer of DEPP licences so long as certain conditions are met. So, I want to bring to the notice of the Minister that there are two conditions which have been stipulated for exporters with annual turnover exceeding Rs. 1 crores. This section of 80HHC deduction would be available so long as exporter conforms to these two conditions. One is that he has an option to choose the duty drawback of DEPP schemes for his export.

Second, the rate of drawback attributed to the customs duty, which is higher than the DEPP rate, for the items exported. Sir, in my opinion, more than 90 per cent of the exporters having turnover of Rs. 10 Crores would not be able to comply with these two conditions. They would, therefore, be required to pay tax on profits on transfer of DEPP licences. Moreover, the limit of Rs. 10 crores would affect a large number of small and medium industries.

SHRI P. CHIDAMBAAM: That is not correct. I will answer.

SHRI C. RAMACHANDRAIAH: And, the tax will affect employment in the export sector. A large number of units may close down, as they may not find it possible to continue in the manufacturing sector, after being subjected to this type of taxation from the assessment year 1998-99, because you have made it retrospective. So, the threshold of this Rs. 10 crore limit would also lead to a number of litigation and exporters would be devoting a lot of time to solve this litigation rather than getting involved in manufacturing activities and marketing of products. So, my request to the Minister is that this aspect has to be taken care of and it should not be done retrospectively as it has been mentioned, since 1st April, 1998. Generally, it is very difficult to make a legislation is taxation with retrospective effect. I don't know the philosophy behind this which has been kept in mind by the hon. Finance Minister and I feel it is not only improper but it is illegal also. Sir, I would like to draw the attention of the Minister to one more aspect, that is, other than finished products of garments. This is regarding marine products also. Most of the coastal States are exporting these marine products and it brings very good revenue and foreign exchange to the Government. Now, they are in a dilemma that this Bill is going to hamper their trade. Then, Sir, there is also the question of bringing an Ordinance for the purpose. The issue of Ordinance has been widely dealt with by Shri Yashwant Sinha. Sir, an Ordinance is a committed legislation and Members are bound by it. The Government has got a majority and issued an Ordinance. Even though it will be passed, but the August House will not have an opportunity to discuss some of the critical points which are being referred to the Standing Committee. And, as it is a Finance Bill, it should have been referred to the Parliamantary Standing Committee on Finance. Standing Committee has the privilege of summoning the concerned parties and take their

5.00 P.M.

opinion and share their wisdom with the august House. So, that privilege, or that responsibility, of the Standing Committee has been done away with. As per the provisions of the Constitution, it is mandatory that the Government accounts should be placed before the House. And, naturally, when a Budget is being placed, it will be accompanied with the Finance Bill and the Budget proposals. It is a mandatory provision. The annual statement of accounts of the Government will have to be placed before the House incorporating all tax provisions contained in the Budget. When the Budget is presented to the House, naturally, the Finance Minister is under obligation to present the Finance Bill also.

It will take some time for the Budget to get finally passed because the Demands for each Ministry will have to be considered, and, all these proposals will have to be put before the Standing Committees. So, this very system of the Parliamentary Standing Committee is being dispensed with.

Sir, I come to my next point. With reference to this Finance Act, the Central Government has taken certain policy decisions regarding income tax and banking transaction. And, the policy decision of the Government is being implemented through an Ordinance. Sir, Ordinance is a way of making legislation, it has become the order of the day, I do admit but not in financial matters, and, that too, when not much time has elapsed after your presentation of the Budget proposals.

As Mr. Yashwant Sinha has said, if the Dabhol Agreement warrants and the negotiations have been settled after the Budget, then you are under an obligation to go through an ordinance. When such is not the case, I think it is not justified to issue the ordinance.

With regard to this aircraft lease, it is there for months together, and, even since last year, we have been discussing this matter. I don't think that it was so urgent—purchasing of an aircraft that has been discussed by this House, which is under consideration of the Government— also to be done through an ordinance.

Sir, moreover, the most important thing is about the concession to the political parties. I think that there should be a wide debate on it.

Political parties need funds, they have to run themselves with funds only, and, everybody knows it. And, the situation does not warrant that it also should come through an ordinance. Political parties can afford to wait, whatever be the consequences. We are governing the country; we are making the laws. But, at least, let us give an impression to the people of this country that after a wide debate, we have been making the laws. Sir, next thing is about power generation. There are regulatory authorities, both at the National and the State level.

I don't know as to what is the urgency that is involved in it. There are other mechanisms that have been provided in the Constitution. There is the Electricity Act, there are other regulatory authorities and even the Electricity Board is there. We are undertaking so many reforms. What I am trying to say is that most of the provisions that have been incorporated have been made of the provisions that have been incorporated have been made to be implemented through ordinances. Next is the fringe benefit tax pertaining to political parties. I think political parties are exempt from income tax. I am under the impression.

SHRI P. CHIDAMBARAM; It is correct.

SHRI C. RAMACHANDRAIAH: When such is the case, why should there be fringe benefit? *...(Interruptions)...*

SHRI P. CHIDAMBARAM: His question is legitimate. I will answer it. *...(Interruptions)...*

SHRI C. RAMACHANDRAIAH: When they have been exempted from income tax *...(Interruptions)...* I don't know why FBT moves around political parties. I don't know who is the employer and who is the employee, and, what are the privileges or the fringe benefits that the employees, which you are going to define subsequently, are going to have. Banking transactions were introduced in the Finance Act, 2005 and it became applicable to the inter-bank transaction also. But you should have foreseen this. A little clarification during the Budget preparations would have solved the problem. Today, it has become more complicated and difficult for implementation. An attempt to simplify this has made it more complicated.

And, the next thing is exemptions. Sir, the exemption is a magnet that is in the hands of powerful which attracts and subtracts. So, my opinion is to remove this maze of tax concessions. It will do three things. First, it will increase collections; second, it will raise efficiency; and thirdly, it will reduce corruption.

(THE VICE-CHAIRMAN (PROF. P.J. KURIAN) in the Chair)

So, it will outbalance specific lobbies also, and we have been suffering from these lobbies. I request the Minister to consider this and take steps to increase the tax honesty, both from the officer side and also the taxpayers' side. Thank you, Sir.

श्री अबू आसिम आज़मी (उत्तर प्रदेश): थैंक यू, वाइस चेयरमैन सर। आपने मूझे टैक्सेशन लाज (अमेंटमेंट) बिल, 2005 पर बोलने का अवसर दिया। सर, इसमें मुझे सिर्फ एक प्वाइंट जो एक्सपोर्टर के लिए है, इस पर बोलना है। पिछले कई महीनों से पूरे भारतवर्ष में एक्सपोर्टर्स की तरफ से आन्दोलन हो रहा है। यह एक बड़ी नाइंसाफी नजर आती है कि 7 साल से जो चीज एक्जम्प्ट थी, 7 साल में जिनसे टैक्स नहीं वसूला गया, टैक्स मांगा नहीं गया,जो भी उनको आमदनी थी, उनका प्राफिट था, वह कहीं-न-कहीं लगा दिया गया और 7 साल के बाद इनकम टैक्स डिपार्टमेंट जाकर जबर्दस्त रेड मार कर, परेशान कर लोगों से टैक्स वसूल रहा है। यह बिल्कुल एक नाइंसाफी नजर आती है। इसमें अगर किसी कंपनी का टर्न-ओवर 10 करोड़ रुपया है, तो उसे एक्जम्प्शन है और अगर 10 करोड़ 1 लाख रुपया हो गया, तो उसे पूरा टैक्स भरना पडेगा। सर, 90 परसेंट एक्सपोर्टरर्स इससे बहुत हैरान हैं और इससे एक्सपोर्टरर्स का बहुत एक्सप्लायटेशन हो रहा है, इससे एक्सपोर्ट बिजनेस खराब हो रहा है। एक इम्प्लायमेंमट जो इससे जनरेट हो रहा था, वह रूक रहा है। एक्सपोर्टरर्स पिछले कई महीनों से अपने एक्सपोर्ट बिजनेस को बढ़ाने की चिंता छोड़ कर इसी काम में लगा हुआ है कि किस तरह से फाइनांस मिनिस्टर से प्राइम मिनिस्टर से बात हो जाए कि उनके ऊपर यह जो तलवार लटक रही है, वह कैसे खत्म हो जाए। उन्होंने बहुत कोशिश की। अगर एक कंपनी 10 करोड़ रुपए का एक्सपोर्ट कर रही है, तो उसे टैक्स नहीं भरना है और उसने 4 कंपनियों में 10-10 करोड़ रुपये का कर लिया, तो वह छूट जाएगा। यह एक अजीब सी चीज इसमें नजर आती है। मेरा फाइनांस मिनिस्टर को यह सुझाव है कि कम से कम सबको एक तरह से रिलीफ देनी चाहिए। इसमें कोई लिमिटेशन नहीं होनी चाहिए। अगर उन्हें बहुत रेवन्यू जनरेट करना है, तो अगर उसने 11 करोड़ का एक्सपोर्ट किया, तो उसमें से 10 करोड़ माइनस होना चाहिए और उसे एक करोड़ पर टैक्स देना चाहिए, उसने 20 करोड़ का एक्सपोर्ट किया, तो 10 करोड़ माइनस करके 10 करोड़ के ऊपर टैक्स देना चाहिए। इसमें यह अमेंडमेंट करना चाहिए। पहले तो सबको छूट मिलनी चाहिए। यह एक बहुत ही ज्यादती हो रही है। इसके लिए मैं खास तौर से फाइनेंस मिनिस्टर से रिक्वेस्ट करूंगा, इस पर बहुत जोर देने की जरूरत है। 4-5 दिनों से तमाम लोगों की, सबको नजरें पार्लियामेंट की तरफ लगी हुई है कि क्या होता है? हालांकि लोक सभा से यह बिल पास हो गया है, परन्तु इस पर कुछ भी करके इस बिल में इतना अमेंडमेंट करना जरूरी है कि 10 करोड़ की लिमिट खत्म करके सब लोगों को एक साथ एक ही नजर से देखना चाहिए,वरना यह एक्सपोर्ट का बिजनेस खराब होगा। जो बड़ी मात्रा में एक्सपोर्ट कर रहे हैं, उनका गुनाह यह है कि उन्होंने ज्यादा एक्सपोर्ट कर दिया और जिन्होंने कम एक्सपोर्ट किया, उन्हें रिलीफ मिल रही है, जिसने एक्सपोर्ट किया, उसे रिलीफ नहीं मिल रही है। इसका मतलब यह है कि ज्यादा एक्सपोर्ट करने की जरूरत नहीं है।

मेरा बार-बार इनसे यही निवेदन है, यह छोटी-सी रिक्वेस्ट है कि इसमें तमाम लोगों को एक तरह से एक्जम्प्शन मिलना चाहिए। यदि यह नहीं हो सकता है, तो 10 करोड़ की जो लिमिट है, अगर उसने 11 करोड़ एक्सपोर्ट किया, तो 10 करोड़ माइनस करने के बाद जो बचता है, उसके ऊपर उसे टैक्स देना चाहिए। इन्हीं बातों के साथ मैं अपनी बात खत्म करता हूं। धन्यवाद।

شری ابو عاصم اعظمی ''اترپردیش": تھینک یو، وائس چیئر مین، سر- آپ نے مجھے ٹیکسیشن لاز (امینڈ مینٹ) بل، 2005 پر بولنے کا موقع دیا- سر، اس میں مجھے صرف ایک پوائنٹ، جو ایکسپورٹر کے لئے ہے، اس پر بولنا ہے- پچھلے کئی مہینیوں سے پورے بھارت ورش میں ایکسپورٹرس کی طرف سے آندولن ہورہا ہے- یہ ایک بڑی نا انصافی نظر آتی ہے کہ سات سال سے جو چیز ایگزیمپٹ تھی، سات سال میں جن سے ٹیکس نہیں وصولا گیا، ٹیکس مانگا نہیں گیا، جو بھی ان کی آمدنی تھی، ان کا پروفٹ تھا وہ کہیں نہ کہیں لگادیا گیا اور سات سال کے بعد انکم ٹیکس ڈیپارٹمنٹ جاکر زبردستی ریڈ مارکر، پریشان کرکے لوگوں سے ٹیکس وصول رہا ہے- یہ بالکل ایک ناانصافی نظر آتی ہے- اس میں اگر کسی کمپنی کا ٹرن اوور 10 کروڑ روپے ہے، تو اسے ایگزیمشن ہے اور اگر 10 کروڑ ایک ایک لاکھ روپے ہوگیا، تو اسے پورا ٹیکس بھرنا پڑے گا- سر، نوے فیصد ایکسپورٹرس اس سے بہت حیران ہیں اور اس سے ایکسپورٹرس کا بہت ایکسپلاٹیشن ہورہا ہے، اس سے ایکسپورٹ بزنس خراب ہورہا ہے- ایک ایمپلائمنٹ، جو اس سے جنریٹ ہورہا تھا، وہ رک رہا ہے- ایکسپورٹرس پچھلے کئی مہینوں سے اپنے ایکسپورٹ بزنس کو بڑھانے کی چنتا چھوڑ کر اسی کام میں لگا ہوا ہے کہ کسی طرح سے فائننس منسٹر سے، بات ہوجائے کہ ان کے اوپر یہ جو تلوار لٹک رہی ہے، وہ کیسے ختم ہوجائے- انھوں نے بہت کوشش کی- اگر ایک کمپنی دس کروڑ روپے کا ایکسپورٹ کررہی ہے، تو اسے ٹیکس نہیں بھرنا ہے اور اس نے چار کمپنیوں میں10-10 کروڑ روپے کا کر لیا، تو وہ چھوٹ جائے گا- یہ ایک عجیب سی چیز اس میں نظر آتی ہے- میرا فائننس منسٹر کو یہ سجھاؤ ہے کہ کم سے کم سب کو ایک طرح سے ریلیف دینی چاہئے- اس میں کوئی لمٹیشن نہیں ہونی چاہئے- اگر انہیں بہت ریونیو جنریٹ کرنا ہے، تو اگر اس نے 11 کروڑ کا ایکسپورٹ کیا، تو اس میں سے 10 کروڑ مائنس ہونا چاہئے اور اسے ایک کروڑ پر ٹیکس دینا چاہئے، اس نے 20 کروڑ کا ایکسپورٹ کیا، تو 10 کروڑ

†Transliteration of Urdu Script.

مائنس کرکے 10 کروڑ کے اوپر دینا چاہئے- اس میں یہ امینڈ مینٹ کرنا چاہئے- پہلے تو سب کو چھوٹ ملنی چاہئے- یہ ایک بہت ہی زیادتی ہورہی ہے- اس کے لئے میں خاص طور سے فائنینس منسٹر سے رکویسٹ کروں گا، اس پر بہت زور دینے کی ضرورت ہے- چار پانچ دنوں سے تمام لوگوں کی، سب کی نظریں پارلیمنٹ کی طرف لگی ہوئی ہیں کہ کیا ہوتا ہے؟ حالانکہ لوک سبھا سے یہ بل پاس ہوگیا ہے- لیکن اس پر کچھ کرکے اس بل میں اتنا امینڈمینٹ کرنا ضروری ہے کہ 10 کروڑ کی لمٹ ختم کرکے سب لوگوں کو ایک ساتھ ایک ہی نظر سے دیکھنا چاہئے، ورنہ یہ ایکسپورٹ کا بزنس خراب ہوگا- جو بڑی ماترا میں ایکسپورٹ کررہے ہیں، ان کا گناہ یہ ہے کہ انہوں نے زیادہ ایکسپورٹ کردیا اور جنہوں نے کم ایکسپورٹ کیا، انہیں ریلیف مل رہی ہے، جس نے زیادہ ایکسپورٹ کیا، اسے ریلیف نہیں مل رہی ہے- اس کا مطلب یہ ہے کہ زیادہ ایکسپورٹ کرنے کی ضرورت نہیں ہے- میرا بار بار ان سے یہی نویدن ہے، یہ چھوٹی سی رکویسٹ ہے کہ اس میں تمام لوگوں کو ایک طرح سے ایگزیمشن ملنا چاہئے- اگر یہ نہیں ہوسکتا ہے تو 10 کروڑ کی جو لمٹ ہے، اگراس نے 11 کروڑ ایکسپورٹ کیا، تو 10 کروڑ مائنس کرنے کے بعد جو بچتا ہے، اس کے اوپر اسے ٹیکس دینا چاہئے- انہی باتوں کے ساتھ میں اپنی بات ختم کرتا ہوں- دھنیواد-

"ختم شد''

SHRI P. CHIDAMBARAM: Sir, I am grateful to the hon. Members for their valuable comments on the Bill to replace the Ordinance. Let me begin, Sir, by expressing my regret that I was not here at 3.20 p.m. I was on my feet in the Lok Sabha and my colleague, Mr. Palanimanickam, was here. I came at about 3.25 p.m. after the other Bill was passed. Sir, the first question, that is raised, is, Ordinances are never made, or, usually not made, especially, taxation Ordinances are not made.

I have, Sir, a long list of Taxation Ordinances beginning from 1953. And if I confine myself to Kaul and Shakdher, I have to stop with 1996; there are a series of Ordinances. But, more interestingly, I have with me references of two Ordinances; one Ordinance was issued on the 3rd February 2001 levying surcharge; and the other Ordinance was issued on the 8th September 2003 reducing the interest rate for calculating interest on delayed refunds. By these two Ordinances, the Government of the day

† [ ] Transliteration in Urdu Script.

and I am sure Mr. Yashwant Sinha recognises these Ordinances of the 3rd of February 2001 and the 8th of September 2003 imposed burden on the taxpayers through an Ordinance. The Ordinance that we are debating now is an Ordinance, which gives relief to the taxpayer; it is not an Ordinance which imposes burden.

Ordinances are not unusual. I certainly did not think Mr. Yashwant Sinha would consider that Ordinances are unusual. I have before me a long list of Ordinances. But I rest my case there. The question is: Did we anticipate or could we have anticipated each one of these issues on which I was compelled to promulgate an Ordinance? I would come to DEPB a little later. Mr. Yashwant Sinha was fair when he said that on Dhabol, there was a compelling case; but on others he did not find any compelling case.

Firstly, Sir, I would hope that the former Finance Minister would extend the courtesy of listening to my Budget Speech as carefully as I listened to his Budget Speech even when I was not a Member of Parliament.

In paragraph 180 of my Budget Speech, I said, "I have received many suggestions on amendments to the direct tax laws and the indirect tax laws. I have decided to accept some suggestions that require to be acted upon immediately." And these are the crucial words, "But I do not propose to burden the Finance Bill with those changes. Instead, I intend to introduce a separate Bill for that purpose during this session." And that is the Bill, which I introduced and that is the Bill which is before the Standing Committee. Therefore, it was not an afterthought that we introduced the Bill to amend the tax laws. It was a conscious decision that the Finance Bill, which related to the Budget, should not be burdened with other provisions. We, therefore, introduced two Bills. One was the Finance Bill, the traditional Finance Bill, and the other was the Taxation Laws (Amendment) Bill, which is before the Standing Committee. But after the Budget was passed, after the Finance Act was passed, and after the other Bill was referred to the Standing Committee, there have been some developments, which required an Ordinance. Again, this is not an afterthought. This is not shoddy workmanship. This is the compulsion of circumstances. I will do my best to give reasons why each circumstance was a compelling circumstance. And, of course, it is for the House to decide whether my justification of the circumstance is right or whether my learned friend's criticism, that there was no circumstance, is right That is for the House to decide.

Let us begin, Sir, with Civil Aviation, what is the position on Civil Aviation? In my Budget Speech, in paragraph 173,1 said, "In deference to the request from Air India and Indian Airlines, I propose to extend up to

September 30,2005, the exemption from tax on agreements to acquire aircraft or aircraft engines on lease." Air India and Indian Airlines requested for an extension up to September 30,2005 hoping that they would complete leasing agreements by that day. But as we came closer towards September, because of the paucity of aircrafts in the world, because of the highly competitive market, Air India and Indian Airlines came back to me and said, "Our leasing agreements are not complete, and the purchase of aircraft is getting delayed.

We need to lease more aircrafts. So, please extend it to 31.3.2006." Now, is that a good reason or not to extend it up to 31.3.2006? I respectfully submit, it is a good reason. We have extended it up to 31.3.2006. And I sincerely hope, this time, Air India and Indian Airlines will not come back and say, please extend it further. That is why the first amendment is being made for leasing.

The second amendment is on international sporting events. Now, Sir, the Budget was passed, the Finance Act was passed and Parliament got adjourned some time in the middle of may. The International Cricket Council decided that the World Cup event will be awarded to India. But they wanted a categorical assurance that the income arising out of that tournament will not be taxed in India. Now, this matter was discussed at several levels and finally, all of you know that the Chairman of the ICC and others met the Prime Minister. The Prime Minister assured them that he would consider giving a tax exemption, but they should make a formal written request, following the meeting. They made a request on the 21st May of 2005. And then, when they made a request on 21st May, 2005, we wrote back to them because it was on the eve of their meeting. On 31st May, 2005, we wrote back to them saying that under certain conditions, the income-tax exemption will be granted. So, this was after the Finance Act, after the Budget and if we have to attract that particular tournament to India, we were obliged to give this exemption. But the amendment that I am making are not confined to cricket. The amendment that I am making applies to all sporting events. It will apply to all multi-countrysporting events where the international body has blessed that event as a recognised event which means, it will apply if, say, World Cup Football comes to India, as I hope it will come one day and will be played either in Kerala or in Goa or in Bengal. I hope so. I want to see

World Cup Football played in India. It will apply if the Commonwealth Games are staged in India. It will apply, if, say, the Winter Olympics come to Himachal or Kashmir. Therefore, what we have done is something which was completed by the fact that we have to carry out the assurance given by the Prime Minister to the International Cricket Council.

Sir, the next one is Dhabol. On that, my friend was fair enough to say that maybe, Dhabol is compelling. Mr. Dipankar Mukherjee asked me a completely different set of questions. What he asked me was, what is the settlement in Dhabol? Sir, I have recused myself from Dhabol. I have, therefore, no intention of taking the time of this House to dilate on Dhabol. The Dhabol settlement is a matter which has been approved at the highest level. The Minister of Power would be very happy, I am sure, to respond in a suitable manner when the Chair says—make a statement or answer a question or whatever. I have no doubt in my mind that the Minister of Power would be quite happy to explain Dhabol. All I can tell you, Sir, so far as this Bill is concerned, what we are doing and I will explain when I will come to the provisions-through this amendment is that we are taking note of the fact that the Ratnagiri Gas and Power Company has been formed. Under section 10 of the Act, certain incomes are exempt from income-tax. Now, when we formed the Ratnagiri Gas and Power Company, it is a subsidiary of one or more Indian companies and, therefore, we are introducing sub-section (40) which says, any income of any subsidiary company, by way of grant or otherwise, received from an Indian company being its holding company engaged in the business of generation or transmission or distribution of power and any income arising out of transfer of capital assets being an asset of an undertaking engaged in the business of generation or transmission or distribution of power, shall be exempt. It means, the parent company when it gives money to the subsidiary company, in the hands of the subsidiary company, that grant will be exempted from income-tax and any transfer of capital assets from the erstwhile Dhabol Power Company to the Ratnagiri Gas and Power Company will also be exempt from capital gains tax. Similarly, we have introduced clause 5 whereunder section 80 (1 A) of the Income Tax Act is amended where we are defining that a company formed before the 30th of November, 2005, which is Ratnagiri Gas and Power Company in this case, with majority equity participation by public sector companies, for purposes of enforcing

security interests of the lenders, that is also an infrastructure activity.

It was absolutely necessary; otherwise, there would have been serious tax issues involved and the settlement would not have gone through.

Sir, the fourth matter is relating to the question of political parties. Sir, who am I to disagree with my good friend, Mr. Ramachandraiah? He is absolutely right; section 13A of the Income Tax Act exempts all political parties provided they comply with three conditions mentioned in section 13A. I am assuming that all political parties are complying with these conditions.

Sir, when it comes to the fringe benefit tax, this was introduced, as Members know, by amending the Finance Act. And the section regarding fringe benefit tax begins by saying it is section 115 WA-in addition to the income tax charged under this Act, they shall be charged FBT for every assessment year. Now,! would have thought that if somebody is exempt from the income tax, the fringe benefit tax does not apply. And for all other reasons that you mentioned namely is there a relationship of the employer and the employee etcetera, etcetera? But, unfortunately, some assessing officers had issued a notice inclining to take the view that even if a political party is exempt from the income tax, the fringe benefit tax would apply. Now we would have to necessarily clear this misconception. Therefore, we have to amend the law.

Sir, the fifth one is exemption from the bank Cash transaction tax. There again, Sir reading the section, the section clearly says, an individual or a Hindu undivided family withdraws Rs.25,000/- or more, or any person other than an individual or a Hindu undivided family withdraws. Rs. one lakh or more. Now, in my view, again, an individual or a Hindu undivided family is quite clear and I don't think it raises an issue-but when you come to a person other than an individual or a Hindu undivided family, the question arose whether the word 'person' there included a bank and more often than not a cooperative bank. Cooperative banks do not have safety valves. Small banks do not have safety vaults So, what they do is, they keep their cash in a bigger bank, usually a nationalised bank, which has access to safety vaults, and when they want cash, they draw the cash from the bank. Now, I would have thought that the

section could be interpreted, to me, that it did not apply to a bank, it applies to a person who is an individual or to a person who held an account other than a savings bank account. But, again, there are so many, hundred assessing officers, and some thought that as the section stood, it is capable of the interpretation, it will apply to banks, cooperative banks. A number of MPs who are connected with cooperative banks came to me and said, "This is creating a problem for us. Therefore, please clarify this to us." We issued a clarification. We issued an administrative clarification, and when the opportunity came to promulgate an Ordinance on four other matters, we thought, we should take that opportunity to clarify that also. So, I would respectfully submit, sir, we have not overreached the Parliament. Each one of the five instances was justified by a circumstance which, not I, the Cabinet believed, was compelling enough to promulgate an Ordinance. And I would request this House to kindly accept the reasons we have given for promulgating on Ordinance. Then, we come to the Bill.

Sir, Members are absolutely right, this is a big question: Is trading in a license an export profit? Now, certain sub-sections were introduced, and my friend, Mr. Yashwant Sinha, will recall that by the Finance Act of 1990 I am not the author of that Act- ...

That Government and that Minister, at that time, introduced section 28(iiia), (iiib) and (iiic). It contemplated only sale of certain licences under the Imports Control Order and Imports and Exports Control Act, it contemplated cash assistance and it contemplated any drawback received. That was the export benefit available at that time. There was also clause (iv) which said, "the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of profession". This was the position.

The DEPB was introduced in 1997-98. Now, I will answer Mr. Ramachandraiah why we are giving it retrospective effect from 1.4.1998. The DEPB was introduced in 1997-98. The first assessment year for DEPB benefit is, therefore, the assessment year beginning on 1.4.1998. Our friend, Mr. Yashwant Sinha, phased out 80HHC by 31.3.2005. Therefore, we are talking about a period from 1 -4-1998 to 31-3-2005. This problem did not arise for any period prior to 1.4.1998, nor does this problem arise after 1.4.2005. We are talking about only this period.

During this period, a question arose as to whether the sale of DEPB licence or more accurately, the transfer of a DEPB credit, would amount to export profit or not. The Department took the view that it is not export profit. I think, a very powerful argument can be made in a court of law that it is not export profit. Firstly, it is not related to export at all. It is trading in a credit or a licence. Secondly, the compensation that you earn from that is not in foreign exchange; it is in Indian rupees. A powerful argument can be made. Equally on the exporters side, they argue that it falls under section 28(iiia), (iiib) and (iiic). Now, on a plain reading of section 28(iiia), (iiib) and (iiic), which I read out to you, it does not apply. It could not have applied because DEPB came after section 28(iiia), (iiib) and (iiic) was introduced. Now, what is the position? Some paid the tax and disputed it. Some did not pay the tax. This dispute was going on. One case, to which Mr. Sinha referred, which I referred to in the other House, and he has got the facts from there, went to the Income-Tax appellate Tribunal. The Tribunal rejected both the cases. The Tribunal did not accept the case of the exporter, nor did it accept the case of the Department. It found a third reason and said, "because of this reason you can't apply Explanation (baa) to 80HHC", and, therefore, ultimately it ended up giving relief to the exporter not by accepting the argument of the exporter, but on some other argument. Obviously, against that order, the Department has gone on appeal to the High Court. Now, I have two courses open before me. I could have said, "very well, the matter is before the High Court. Let the High Court decide". The High Court will decide this case over a period of four or five years, then it goes to the Supreme Court. One of us is bound to go to the Supreme Court because it involves a large amount of money. When we go to the Supreme Court, it will take another three or four year. Now, who will benefit. The lawyers will benefit. But the point is that the exporters will still be uncertain because for eight or nine years the question is not decided one way or the other. Therefore, when the exporters met us, met me, met the Commerce Minister, met the Prime Minister, we said, "all right, we will find a solution to the problem". It is not that we will be able to concede their entire case that everybody must be exempt or deny to everybody any benefit. We said, "we will look into the matter and we will find a golden mean". We referred it to the Economic Advisory Council. The Economic Advisory Council gave us a report. Four recommendations were made by the Economic Advisory Council and these are the four

recommendations made by the Economic Advisory Council:

"Accordingly, our recommendations are as follows:

1. If the export turnover was Rs. 10 crores or less, the corresponding income-tax assessment may not be reopened and they may be given the benefit of exemption."

I have accepted it.

2. If the export turnover was more than Rs. 10 crores, the corresponding income-tax assessment may be reopened. If the exporter had claimed DEPB credit and also tax exemption for such DEPB credit under section 80HHC(3), the return may be reassessed without the benefit of exemption and additional tax may be levied."

However, no such reassessment may be made till the exporter is able to prove that (a) he had a choice between drawback and DEPB for the given export product and (b) the customs component of the drawback rate was higher than the DEPB rate. I have accepted it. Third, no penalty by way of interest, penal interest should be levied. In other words, fresh demand should be limited to the actual tax payable. I have accepted it and we are issuing instructions and implementing this 'no penalty and no interest". Four, the arrears of tax on the basis of reassessment may be collected over two years, according to an instalment schedule, as may be decided by the IT Department. I have not only accepted it, I have said the arrears, if any, will be collected over five years, not two years. We have faithfully accepted the report of the Economic Advisory Council. Now a question was raised that a bulk of the exporters will not benefit. That is not correct. We have the number of exporters. By imposing a limit of Rs. 10crores, out of about 65,000 exporters, 61,000 exporters are covered. It is only the very large exporters who are not covered. Even they can get the exemption if they satisfy the two conditions. This is a golden mean that we have struck. I cannot give up revenues, nor do I wish to burden the small exporters on a matter which is clearly an arguable matter. I am not saying that the Department's case alone is arguable. The Departments' case is an arguable case and the exporter's case is an arguable case. But only one of them can win

and that too after eight or nine years. Therefore, we have adopted this method in order to give relief. I have received letters in the last few days after the Lok Sabha passed this Bill from the exporters, thanking the Government for giving relief to a large majority of exporters. Yes, some big exporter, who does not satisfy the two conditions will not benefit. I agree. But that is because, in my view, the intention was never to give exemption on income or profit earned from the transfer of DEPB credit which in colloquial language is the sale of DEPB licence. Therefore, what we have done is perfectly correct. I do not think we have done anything wrong. On the contrary, we have acted with discretion, we have acted with circumspection and we have acted with a sense of balance between the interest of the revenue and the interest of the exporters.

Sir, I do not know why Shri Yashwant Sinha used harsh language when he said that we have 'smuggled in a provision'. It is not smuggling. I cannot smuggle anything into Parliament. This is the House of States. I am bringing forward a proposal which has been passed by the Lok Sabha. This has come to you for consideration and return. Clearly, I have not smuggled anything. Neither have! smuggled it from any country, nor from any other jurisdiction. I have not smuggled anything from anywhere. This is a provision that we are placing and the reason for doing it is that the DEPB report to EAC came after the Ordinance. Therefore, we thought that the earliest opportunity must be taken to give benefit to the exporters; otherwise, we would have to wait till the month of February and the Bill would have been passed in the month of May. Therefore, I think what we have done is correct.

These are important amendments to the Income Tax Act. A suggestion was made by Shri Soz that we should simplify the Income Tax Act. I entirely agree with him. In fact, in paragraph 180 of my Budget Speech, I had said that I intend to place before Parliament a revised and simplified Income Tax Bill. We are working on that. Five Working Groups have been set up. The reports will be received, hopefully, by the end of this month. I am confident, sometime, during the Budget Session, we will be able to place before the House the Income Tax Bill. I think it is very important for us to refine the income tax law. Too many people are exploiting the loopholes in the income Tax Act. The Income Tax Act has now become a playground for people to abuse the Income Tax Act and exploit the

provisions of the Income Tax Act. A simpler law, I think is a much better way by which we can raise revenue. Our Department has done very well this year. Income tax collections are running at a historic high. Direct taxes to GDP as everybody knows, was less than 4 per cent Last year, direct taxes to GDP ratio crossed 4 per cent for the first time. This year, if we are able to collect the revenue, direct taxes to GDP ratio will cross 5 per cent for the first time.

And, in the next year, we aim to do better. We can aim to do better only if we have a simple Income-tax law which everyone will obey and comply with. Today there is no fear of law. People don't file their income-tax returns. There is no fear of law that if you do not file the income-tax return, that is a grave offence. Then we have another instrument; we are re-considering the usefulness of that instrument because that instrument, which is the Settlement Commission, is again being abused. The income-tax law provisions are being abused. I promise Mr. Soz and I promise this House that in the Budget Session, we will come before this House with a simplified Income-Tax Bill.

Sir, with these words, I commend this Bill, and I request my good friends to accept the reasons which I have given for having brought the Ordinance, and the circumstances under which we were obliged to introduce sections 3 and 4 of the Bill for the DEPB benefits. I am giving the benefit. It is because I have to give the benefit for a period of eight years, the Bill has to be made effective from 1.4.1998 because after 31.3.2005, it is only of academic interest. That is why this retrospective amendment has been made. I request the House to kindly return the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): Thank you, Mr. Minister. Now the question is ...*(Interruptions)*

SHRI M. VENKAIAH NAIDU: Sir, we carefully listened to the detailed reply given by the hon. Finance Minister. But as the hon. Finance Minister himself was saying, "The case is arguable on both sides", we are not satisfied with the response arid the reply of the hon. Finance Minister. Secondly, while arguing in favour of the Ordinance, he has missed a point. He could not convince us as to why he did not bring in this legislation during the Monsoon Session of Parliament. He was not able to explain to us as to why an appropriate law was not made at that time. Thirdly, Sir,

our suggestion is that it should be referred to a Select Committee. *Prima facie* it should have been sent to the Standing Committee of Parliament. Various legislations are referred to Standing Committees. In Standing Committees, there is adequate representation of Congress (I) Members as well; we could have gone into it in details had it been referred to the Committee. But the Standing Committee was not taken into consideration because of the reasons he has explained. But today in the House, he says, "I am leaving it to the collective wisdom of the House." We are also a part of the House. We had suggested humbly that this should be referred to a Select Committee, and the Government's response is negative on this...

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): You have made your point. You take your seat...

SHRI M. VENKAIAH NAIDU: In protest against the decision of the Government, we are walking out of the House.

(At the Stage hon. Members left the Chamber.)

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): The question is:

'That the Bill further to amend the Income Tax Act, 1961 and the Finance Act, 2005, as passed by Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): We shall not take up clause-by-clause consideration of the Bill.

Clauses 2 to 9 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P. CHIDAMBARAM: Sir, I move:

"That the Bill be returned."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (PROF. P.J. KURIAN): Now, Mr. Chidambaram to move a motion for consideration of the Appropriation (No. 5) Bill, 2005.